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## ALCOHOL AND CRIMINALITY.<sup>1</sup>

### TO WHAT EXTENT SHOULD CRIMES COMMITTED IN A STATE OF ALCOHOLIC INTOXICATION BE CONDONED?

OLAF KINBERG.<sup>2</sup>

It is generally admitted that there exists a close relationship between the abuse of alcoholic drinks and criminality, and that alcoholic intoxication, acute or chronic, is a more or less direct, more or less important, cause of crime. Nevertheless, after all is said, it must be admitted that we are still but poorly informed concerning the nature, and above all, concerning the extent of this relationship, since criminal statistics which would throw sufficient light upon the causal relation between crime and alcohol are still wanting. On the other hand, it is evident that the simple fact that a crime was committed by an individual in a state of alcoholic intoxication, whether acute or chronic, does not in any way prove that intoxication was the determining cause of the crime. The question which one should put to oneself concerning this subject has been very well formulated by a committee appointed by the Swedish Medical Society to make researches into measures to be taken against the abuse of alcoholic drinks, viz., if alcohol did not exist, how many and which crimes committed during a certain period of time is there reason to believe would not have been perpetrated?<sup>3</sup> The statistics actually in existence give no solution of this problem. In Sweden, for instance, one always finds in the annual reports of the present administration, data concerning crimes committed during drunkenness. Permit me to cite some of these data from the annual report for 1909:

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<sup>1</sup>Translated by Bernard Glueck, M. D., senior assistant physician, Government Hospital for the Insane, instructor in psychiatry, George Washington University.

<sup>2</sup>Professor of psychiatry and of medico-legal psychiatry and director of the City Hospital at Stockholm.

<sup>3</sup>Alkoholen och samhället, 1912, p. 29.

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TABLE I.

Crimes Committed by Individuals Sentenced to Imprisonment, and Admitted to the Swedish Penitentiary During 1909.

I	II	III	IV	V	VI
Crime.	No. of Persons.	No. of those whose crime was committed during a state of drunkenness.	No. of those who were alcoholic before the crime but did not commit their crime in a state of drunkenness.	The figures indicated in col. III are per cent of those in col. II.	The figures indicated in col. IV are per cent of those in col. II.
Rebellion . . . . .	331	212	7	64.05	2.11
Violation of domicile. . . . .	93	79	8	84.95	8.02
Assault . . . . .	519	388	31	74.75	5.97
Murder . . . . .	20	17	1	.85	5.
Attempted murder . . . . .	67	26	16	38.81	23.88
Theft . . . . .	1303	479	197	36.76	1.51
Swindling . . . . .	126	19	18	15.08	1.42
Forgery . . . . .	96	13	20	13.54	20.83
Military offenses . . . . .	180	82	11	45.56	6.11

One sees, therefore, from these figures that drunkenness bears quite a bad reputation in these statistics, and indeed, it can hardly be doubted that it does play an important role among the causes of crime. But, admitting all this, there is certainly reason for not accepting these figures without great reservations. The figures relating to theft especially seem doubtful, either because the number of thefts committed in a state of drunkenness are much lower in the statistics of other countries (e. g., in Baden only 7 per cent, against 40.15 per cent in Sweden), or because among our thieves the number of chronic alcoholics is much lower than that of occasional drinkers. If one observes the manner in which the figures of the statistics of the present administration are grouped, figures upon which the table given above is arranged, one finds that this grouping is not a very efficient one, since it is not known how many chronic alcoholics are included in the rubric of those who have committed their crimes in a state of intoxication. Hence the impossibility of making a useful comparison between the two groups. In order to furnish the proper information, a table of the penitentiary report should include three groups: First, those who without being chronic alcoholics committed their crimes in a state of drunkenness; second, those who, being chronic alcoholics, committed their crime in a state of drunkenness; third, those who having been chronic alcoholics before the crime, nevertheless, did not commit the crime in a state of drunkenness. Aside from this fault of method, there are in the cited statistics numerous sources of errors. The criminal is quite likely to ascribe his act to drinking, this being, according to common belief, some

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sort of excuse. On the contrary, he is very loath to admit voluntarily that he is a chronic alcoholic. Aside from this, the statements of these individuals cannot as a rule be verified, because the original records of inquiry are not at the disposal of the penitentiary officials who collect these data. Finally, these officials cannot perhaps be entirely exempt from a certain tendency, unconscious no doubt, of regarding alcohol as the scapegoat of the greater part of the evils of the world, and therefore, also of criminality.

More extensive researches on the relations between alcohol and criminality were made in Sweden by Wieselgren between the years 1877 and 1897, and by Wiren between the years 1898 and 1907. These researches gave the following essential results: (Quoted from Swedish Medical Report.)

Among the men condemned to the penalty of convict labor and imprisonment, about 73 in a hundred have themselves imputed their crimes to alcohol. Among these the number of those who were considered as having committed their crime in a state of drunkenness is four times larger than the number of those who have abused alcohol or have used alcohol to excess before the perpetration of the crime. Women commit fewer crimes caused by acute or chronic alcoholism than men. Considering the influence of alcohol on the kind of crime, crimes against the person, such as violation of the home, assassination, murder, assault, brigandage, resistance to the police, are relatively more numerous than crimes against property. Theft, however, makes up half of all the offenses, and among these, 65 in a hundred are considered as having been caused by alcoholism.

The Swedish committee quotes again a statement of the Committee of Fifty (United States), viz., among more than 13,000 criminals examined, it appears that the abuse of alcohol was a concomitant cause of criminality in nearly half of the cases; that it was the principal cause in 31 per hundred cases, and the only cause in 15 per hundred. Researches made in Denmark by a committee appointed by the government for the purpose of determining measures to be taken against alcoholism and for the purpose of ascertaining what influence alcohol had upon the crimes which came before all the tribunals of the land during the period between October 1, 1903, and October 1, 1904, gave the following results: Among all those condemned, 50 per hundred were addicted to the use of alcohol, while among the rest, 25 per hundred committed their delinquent acts while under the influence of alcohol.<sup>4</sup> Among the crimes considered here were included mendicancy, vag-

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<sup>4</sup>Alcoholen och samhället, p. 30.

abondage, and crimes of a graver nature. Since it is necessary to judge of the value of these statistics in order to appreciate the extent of the influence of alcoholism on criminality, the first question which presents itself is: whether the original statements were collected in a manner which would prove that the crime was actually committed under the influence of alcoholic intoxication. For the reasons previously given, this cannot be determined for the Swedish statistics. But even in the case where the state of intoxication at the time of the perpetration of crime may be held to be confirmed, it cannot at all be proven that the intoxication was the determining cause of the crime, for as Halläger remarks, in many cases alcoholism and crime do not stand in the relation of causality, but are parallel phenomena. On the contrary, there are cases where alcoholism may be considered as a determining cause, though indirect and remote from the crime; cases where unfavorable influences of the environment produced by alcoholism of the parents or of near relatives, may lead an individual to criminality without being an alcoholic himself.<sup>5</sup>

Nevertheless, in spite of the legitimate objections that may be made against the premature conclusions drawn from statistical statements on the relation between alcoholism and criminality, experience has proven that the abuse of alcoholic drink is the determining cause of a considerable number of crimes, and that if this abuse did not exist, many of the most revoltingly brutal crimes would disappear. Since the attempt is made to give a very exact and minute representation of the importance of alcohol as a cause of crime, it might be well to consider separately acute and chronic alcoholic intoxication in their relations to crime. In endeavoring to demonstrate the genesis of criminal acts committed in a state of acute intoxication, one must start from the psychic effects of acute alcoholic intoxication. That is to say, among the mass of psychic symptoms of acute alcoholic intoxication the following, from a criminalistic point of view, are of the first and greatest importance: First, an increased tendency towards emotional manifestations (anger, joy, chagrin, mistrust, etc.); second, a heightened motor excitability; third, a leveling of ideas with reference to their ethical significance, which carries with it a lessening influence of ethical concepts upon the acts of the individual. From the exaggerated emotionalism and from the motor overexcitability are derived all that series of criminal acts which may be grouped under the name of violent motor discharges. To this group belong the acts designated in the penal code under the names of noise, disturbing the peace, depre-

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<sup>5</sup>Quoted from Ley and Charpentier, *Alcoholism and Criminality*.

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dations on property, resistance to the police, fights, violation of the home, assault and murder. The same psychological factors that are responsible for the lowered ethical state may engender acts which, though subserving a normal desire, for instance the sexual desire, do so in a criminal way; e. g., violation. It also happens that abnormal desires which the individual may control when he is sober, or which are more or less concealed by him, manifest themselves in acts during drunkenness. As examples may be cited homosexual acts, committed by individuals who when sober show no homosexual tendencies. Cases are known where other abnormal desires are brought into play during drunkenness, as for example, the case of an individual who starts voluntary conflagrations whenever intoxicated, without ever having shown in a state of sobriety any pyromanic tendencies. It should also be noted here that drunkenness may very frequently figure as an accidental cause of attempts at murder committed by abnormal individuals or by the insane; e. g., imbeciles, idiots, demented seniles, etc., and who only commit these crimes in a state of drunkenness. Finally, mention should be made of a series of crimes whose origin connects them chiefly with the ethical leveling produced by alcohol, viz., petty thefts and swindling, committed in a state of drunkenness by persons who, when sober, have never rendered themselves guilty of such offenses.

The psychic features of chronic alcoholic intoxication which are of especial criminalistic importance are, first, the ethical leveling which is here preeminent as long as the intoxication lasts, while it is temporary during acute intoxication; second, the lowering of the capacity for physical and mental work; third, alcoholic psychoses. The first two effects of chronic intoxication are regularly met with; the last occurs only in a relatively small number of chronic alcoholics. It goes without saying, that the effects of acute intoxication on the emotions and on the psychomotricity accompany also chronic alcoholism, especially when it is complicated by an acute debauch. The connection between chronic alcoholism and criminality is frequently brought about through the individual's incapacity to satisfy the exigencies of life on account of the social incapacity caused by alcoholism. Often the development of criminality in chronic alcoholics takes the following course: The capacity for work is diminished, thus reducing the individual's ability to earn his livelihood, and bringing him to a lower social level; soon the individual can no longer supply his needs by means of work; the temptation to procure by criminal acts that of which he has need is not late in coming, and when it does arrive the individual succumbs to it, the moral degeneracy having already leveled the road to crime. In these

cases, the crimes are often of an economic order, such as thefts, swindling, forgery.

No pronounced difference between acute and chronic alcoholic intoxication exists from the point of view of the dominant forms of criminality, a fact which is not surprising since chronic intoxications present themselves often under the form of a series of acute intoxications. Frequently one finds also with chronic alcoholics, brutal crimes such as assault, murder, assassination, attempts to kill. Nevertheless, that which is the chief difference between the criminality of acute intoxication and that of chronic one is that in the latter, economic crimes play a much greater role than in the former.

The questions which arise from the foregoing may be formulated in the following manner: To what extent should the genesis of various forms of criminality be imputed to alcohol? In endeavoring to reply to this question it is, I believe, indispensable to consider crimes committed during acute drunkenness separately from those perpetrated by the chronic alcoholic.

As regards brutal crimes committed in a state of acute intoxication, experience has shown that a large part of these ought to be placed to the account of alcohol. Nevertheless, it should not be forgotten that there are still other important circumstances which contribute to produce the criminal act. It has also been remarked, and justly, that the increase of brutal offenses during Saturday, Sunday and Monday should be attributed not alone to the greatly increased consumption of alcoholic drinks, but in some measure to idleness, which multiplies the chances for collision within those days. There are many more persons in the restaurants and the other places of amusement during the days mentioned than during the rest of the week. However, it appears to follow from the number of arrests for drunkenness and for offenses in connection with drunkenness in Norway, where the retail saloons are closed from Saturday evening to Monday morning and where the minimum number of arrests falls on Sunday, that it is always alcohol which plays the greatest, if not the sole part in the increase of brutal offenses during the days named.<sup>6</sup>

Since the individual disposition to violent reactions is of considerable importance in the genesis of brutal crimes, it is only a small number of those acutely intoxicated who smash windows and play with knives. As to those who commit murderous attacks in a state of acute drunkenness, it should be remarked that many important researches

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<sup>6</sup>Dr. Hercod in *L'Annaire anti-alcoolique*, 1910, quoted from Ley and Charpentier, *Alcoholisme et Criminalité*.

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have shown that among this class of criminals there are a great number of abnormal and insane individuals. As regards thefts committed in a state of acute drunkenness I have already shown that the figures of the Swedish criminal statistics are probably very erroneous, since they go far beyond analagous figures of some other countries.

From the remarks here made it follows that, even for the crimes committed in a state of acute drunkenness, it would be wrong always to consider alcohol as the essential, still less as the only cause.

This argument holds good still more forcibly for those crimes which are committed during a state of chronic alcoholic intoxication. It is in this category of criminals that one seeks to find the binding cause which connects alcoholism with criminality. Here it is quite essential to reckon with the inner causes of alcoholism; that is to say, the psychic qualities which belonged to the individual before he commenced the abuse of alcohol, since many researches demonstrate that there is found in a large proportion of these individuals a psychic defect, either congenital or acquired. Thus Mr. Geelvinch<sup>7</sup> has found that among 600 chronic alcoholics there were 8.3 per cent imbeciles, 2.8 per cent hysterics, 12 per cent epileptics, 3.5 per cent psychopaths of other varieties, 2.5 per cent traumatics, and 2.1 per cent demented hebephrenics. Finally defects, either congenital or acquired, are found in 44.4 per cent of men and 50 per cent of women. The work of Stocker<sup>8</sup> and others have shown the necessity of taking into consideration this fact of fundamental importance. Therefore criminal chronic alcoholics are, in great proportion, originally inferior individuals who are attracted to alcohol as the moths are to the flame. Their moral and physical decay progresses constantly under the deleterious influence of alcohol.

In rendering an account of the influence which chronic alcoholism may have on criminality, attention should be directed to the composition of two groups of criminals who exercise a considerable influence on criminality, chiefly from the quantitative point of view; that is to say, passive habitual criminals and vagabonds. The passive habitual criminals thus named by Aschaffenburg<sup>9</sup> are individuals whose criminality is the result less of pronounced criminal tendencies, which in general are not found with them, than of their social incapacity, the root of which is their mental inferiority, discoverable, according to Bonhoeffer's researches, in about 75 in a hundred of this class. The same assertion has been made for vagabonds (Bonhoeffer, Willmanns and others). By

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<sup>7</sup>Ueber de Grundlagen der Trinksucht.

<sup>8</sup>Klinischer Beitrag Zur Frage der Alkohol Psychosen.

<sup>9</sup>Aschaffenburg "Das Verbrechen und seine Bekämpfung."



most authorities it has been established in a manner sufficiently reliable, that a large part of the individuals belonging to these two groups are also chronic alcoholics, but as soon as they become alcoholic they are criminal chronic alcoholics. It is further found that passive habitual criminals, vagabonds and criminal chronic alcoholics, are groups of criminals which in reality cannot be well separated one from the other, and which may be considered without inconvenience as a single large group. Assuming that in this group we have to do not with a single cause of criminality—chronic alcoholism—but with yet another cause no less important, viz., original psychic inferiority, it would be illogical to impute all that criminality to chronic alcoholism alone. If one wishes to express this thought by employing the form used in the question which I propounded at the beginning of this study, it may be said that even if chronic alcoholism did not exist, only a part of the crimes actually committed by chronic alcoholics would disappear. It need not be emphasized that the amelioration of criminality associated with chronic alcoholism which would follow the suppression of alcoholism cannot at the present moment be expressed in a mathematical relation. The solution of this problem must, therefore, be postponed to the future.

If I take my position a little reservedly in regard to the problem of the causal relation between alcohol and criminality, and if I oppose beliefs a little Utopian concerning the anticipated good effects on criminality in general which would result from the total suppression of alcohol—views often found in scientific literature—I am pleased to find my views supported by one of the most sagacious and most circumspect of French criminologists<sup>10</sup> of today.

In a discussion of French criminal statistics which first appeared in the Lacassagne Archives in 1901, this scientist expresses his regret in the following manner:

“One should not, if one wishes to be abreast of the times, continue to use alcoholism as the handy and easy reply to all embarrassing problems and charge it with all the sins of Israel, all our crimes, all our suicides, all our nervous disorders.

“I believe that a large part of the increased proportion of cuttings and maimings is due to the diffusion of habits of alcoholism, but I am persuaded that this is not sufficient to explain it, unless the expression is considered to signify also that moral alcoholism which feeds the strife of parties, the daily inflammation of the hatred of citizen against citizen by the press and by speech.

“These incitations explain as well and better than the little glass in the morning the anomaly of a constant progression of brutality in a

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<sup>10</sup>Tarde, *La Criminalité en France dans les vingt dernières années Archives d'Anthropologie Criminelle*, 1903, p. 162.

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time when the incontestible progress of civilization should soften the manners of the people."

As to relations between alcoholic psychoses and criminality, it is a well known fact that the greater part of crimes committed by individuals suffering from a mental malady of alcoholic origin are violent aggressions (assaults, murders, assassinations) springing directly from delusional ideas of persecution, of jealousy and which are often found in these patients. Consequently it is not necessary to enter into details on this subject.

Passing now to the question of the means of treatment which a rational criminal policy should apply to alcoholic criminals, it is evident that the object of social reactions against these criminals should be the same as for other criminals, to-wit:

First. To prevent the criminal from falling into repetitions (of the crime).

Second. To exercise an educating influence on public opinion.

Third. And outside of that, the social reactions should be reorganized in such a manner that they entail only a minimum of harm; that is to say, that they inflict no unnecessary suffering on the criminal nor economic or other useless expenses on society.

Albeit such reactions presuppose in the first place a profound and detailed knowledge of the general psychology of the alcoholic as regards the causes that make him drink and then of the personality of the criminal individual chiefly from the point of view of the degree of danger which he presents to society.

In speaking here of the general psychology of the alcoholic I do not refer to the direct psychic effects of intoxication, but only to the special mentality of the alcoholic, which leads to the abuse after a manner more accidental or more chronic of alcoholic drinks, be this mentality due to a constitutional organization, to unfavorable influences of social environment, or to previous alcoholic intoxications.

The exposition that I have tried to make here of the general psychology of the alcoholic is based mainly on the facts given on this subject in the work of the Swedish medical committee, a work elaborated by Dr. Ivan Bratt.

In the chapter of the report, entitled "Chronic Alcoholism," Dr. Bratt quotes in the first place the opinions on chronic alcoholism of the Swedish physician, Dr. Huss, who was the first to make of it a monographic clinical description. According to Huss, chronic alcoholism is a chronic malady characterized by morbid symptoms without organic changes, developed under a chronic form in the nervous system of an individual who during a long time and continually has used brandy or

other alcoholic drinks in considerable quantity. Since the time of Huss his manner of viewing chronic alcoholism has become little by little the current opinion: he who abuses alcoholic drinks is considered by that fact itself to be suffering from a grave malady and should be subjected to a medical treatment that would bring about a cure.

After that Dr. Bratt gives a brief resumé of the description made by Kraepelin, a description which, being well known to all those who are interested in the alcoholic question, may be omitted here without any inconvenience. The author of the report makes the observation that Kraepelin gives no distinct definition of chronic alcoholism, but that certain expressions in the text of Kraepelin seem to show that he employs the term "chronic alcoholism" in two different significations. In the first case, he means by that term, it appears, "the psychic state which develops little by little in those who have the habit of taking a new dose of alcohol before the effects of the preceding one have disappeared." In another place of the same description Kraepelin says that "chronic alcoholism regularly produces lesions in the diverse organs of the body" whence follows that chronic alcoholism may also mean the continued abuse in itself of alcoholic drinks.

From the symptomatology given by Kraepelin it is evident that it refers to very advanced cases. From this one may draw the conclusion that according to Kraepelin the disease of chronic alcoholism should only be recognized as present in the cases where the abuse of alcoholic drinks has already produced very disastrous effects on the individual.

This argument implies also this: The majority of those who are permanent drinkers of alcohol and injurious to society cannot be considered as suffering from *alcoholismus chronicus*.

The information given by Kraepelin that in Germany the number of drinkers needing care in the inebriates asylums does not exceed 2 for 10,000 inhabitants seems to support the opinion given above. Hence that number being much less than that of individuals who abuse alcohol in a manner permanent and injurious to society and themselves, it seems that Kraepelin is of the opinion that the disease in question could only come in a late epoch, after a life of drunkenness.

There is therefore a contradiction between this interpretation of the symptomatology given by Kraepelin and the definition which he himself seems to accept, that is, he regards it as demonstrated by laboratory experiences, that after slightly increased doses (80 grammes a day) persistent effects (*dauerwirkungen*) supervene in a week. An individual subjecting himself to such persistent psychic effects undergoes, according to Kraepelin, a psychic change developing little by little and terminating after a time into the morbid entity of chronic alcoholism.

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In order to explain this lack of harmony between the symptomatology and the definition of the malady in question, one may suppose that the description which Kraepelin has made of symptoms relates to chronic alcoholics admitted to the hospital, while the definition of the malady is the result of laboratory experiences. "Hence, says the author of the report, it is in the intermediary domain of the alcoholics of the laboratory and the alcoholics of the hospital that the great majority of alcoholics live and move."

In continuing his criticism of Kraepelin's opinions the author of the report calls attention to the important fact that Kraepelin, although admitting himself that a very large number of chronic alcoholics (about 50 for 100) are abnormal individuals, does not even make an attempt in describing the symptomatology of chronic alcoholism to distinguish the characteristics due to alcohol from those which have an endogenous origin.

By this fault of method one is cut off not alone from the possibility of confirming whether and to what extent the particular psychic traits of the chronic alcoholic in an intoxicated state are related to alcohol or to the previous character of the individual, but also from the possibility of knowing whether on the whole the abuse of alcoholic drinks may cause persistent psychic effects and if so, of what nature.

The most serious objection made by the author of the report against the description of chronic alcoholism of Kraepelin and of other authors relates to the exposition that they have made concerning the most important and most characteristic symptom of that state, to-wit, the appetite for alcohol. He finds (note author of the report) that that appetite, although considered as the central fact of the alcoholic life, has never been the object of a very penetrating analysis.

Here is the analysis made of it by the author of the report, M. Bratt: The base of the appetite for alcohol that is found in advanced alcoholics is made up of certain painful sensations which manifest themselves, or at least accentuate themselves, when he is not under the immediate influence of alcohol. These sensations are caused by a certain physical state produced by alcoholic intoxication and constitute the basis of what may be called the alcoholic appetite. It is to prevent the disagreeable sensations from arising or to mitigate them that the alcoholic drinks. Nevertheless it is important for the question which occupies us that the disagreeable sensations disappear after an abstinence of some days, or at the most of some weeks. If they remain after that time, there is reason to suppose that they are not symptoms of alcoholic intoxication, but that they re-enter the large group of psychasthenic sensations of "constitutional degenerates."

If one wishes to characterize as a disease this abnormal state caused by alcohol and manifesting itself by sensations of great distress, etc., which may be removed by the alcohol itself, one may do so. But then it is a malady of the same nature as drunkenness itself, that is to say, an intoxication. However one may be justified in objecting against the identification of drunkenness and disease if one takes the point of view of general expediency. In all cases this morbid state disappears as a rule after some days of abstinence from the poison which has produced it. It will, therefore, not be exact to call it chronic alcoholism.

Nevertheless, one may object, even if the alcoholic has been freed from morbid symptoms he falls back more frequently and in a shorter time into his alcoholic habits. That is true, but what has not yet been observed is that it is not the same alcoholic appetite which manifests itself in him during a state of intoxication and which supposes a toxic organic modification inducing a change of cenesthesia. On the contrary, it is a necessity of purely psychologic origin which is the product of his habits of life and his ordinary surroundings, of that which tires him, of his lack of interests of a more elevated order, of his empty life which he can only fill up by going to hunt his stimulant in the cafe. There is still added to this the lack of effective motives (that is to say of motives that have the necessary force to influence his actions) to abstain from alcohol, and from all that which results in his relapse.

This distinction between physical appetite and the psychological necessity is of an importance that can not be too highly valued. Because if one may in general look upon the attempt to give to men motives sufficiently strong to conquer a desire which emanates from any kind of physical state as vain and impossible; one finds on the contrary that it will be much easier to find for them sufficient motives—among which should be considered the serious and severe reagents which may furnish future legislation—for combatting with success a necessity which is only of a psychological order.

The opinions of the Swedish Medical Committee on the most important point of alcoholic psychology, the appetite for alcohol, are here briefly resumed. I accept them for my part without reserve. During many years, I have seen in the Communal asylum of the city of Stockholm a very large number of cases of severe alcoholism of all shades; and the psychological observations that I have had the opportunity to make on them have persuaded me that the views here unfolded express the essence of the thing. I always have the habit of questioning the alcoholics sometime—after their entrance into the asylum, if they felt a desire, an appetite for alcohol, as for example the desire for tobacco after a time of abstinence. I recall only one who responded

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in the affirmative, and he was a man profoundly degenerated, with endogenous fluctuations, twilight states, impulsions, etc.

Now in examining the scientific literature on the question under consideration one finds that everywhere a single means is proposed for treating alcoholic criminals, that is, the asylum for drinkers. In the laws of some countries this has already been introduced among the means of social defense. In the countries where it does not yet exist, it is praised with fervor. Those who believe in it say it will be a true panacea. Nevertheless, from the point of view I take, what hope is there for the so-called cure of drunkards from a confinement for a long period in the asylums for drinkers? The physical appetite for alcohol disappears in a few days in the majority of them, that is certain, and for the time that it exists the asylum for drinkers is useful. But for the rest of the time what service does the asylum render? The psychological necessity for alcohol which still persists cannot be subjected to a special medical treatment, even to a medical psychologic treatment; it belongs wholly to the domain of popular, or social psychology, if one wishes.

That which should be passed upon before all this psychological treatment of the necessity for alcohol, is the furnishing to the drinker of sufficient motives to abstain from alcohol. But it seems an *a priori* conclusion that one could find means less costly, less severe, and at the same time more effective than a confinement of long duration in an asylum for drinkers.

I do not at all wish to pretend that there will not be cases needing to be kept for a long time in a house of re-education, of work, i. e., an asylum for drinkers, but I claim that these are very serious cases, cases that have clearly demonstrated by their previous life their inability to live in society. But these cases are a minority and it is the mass of alcoholics that should chiefly concern us.

It is sufficiently interesting to note that the president of the Swedish Court of Appeals (Gota Hooratt), the baron A. Lyonhufoud in his capacity as president of the committee for the reform of laws on public assistance in a special report which appeared in 1837 proposed legislation which is based as far as the psychology of alcoholics is concerned on an opinion which greatly resembles those here unfolded. In this report Mr. Lyonhufoud expresses himself in the following manner:

Each time that a particular person is declared guilty of drunkenness that fact is noted in the register of the tribunal and a certificate confirming it is given to the municipal council of the community to which the individual condemned belongs. These certificates will be registered in alphabetical order, so that the pastor or the municipal

council may, each for himself, give information in the certificates of change of dwelling and besides do their duty in that which regards the social condition of the individual condemned.

He, who for the fourth time has been declared guilty of infraction of the law on drunkenness, will have lost the right to decide for himself and his property and will consequently be placed by the Tribunal of Law under the guardianship of the municipal council unless a particular person will take charge of his guardianship. If the one who is thus condemned shows himself repentant and if he does not get drunk again for more than two years the tribunal may restore to him the rights of which he has been deprived in the manner stated above.

If the infraction has been aggravated, the special penalties stipulated should be applied.

If anyone is declared guilty of drunkenness for the fifth time, the tribunal of law decrees that the wife of the condemned, if there be one, has the right of divorce according to the conditions stipulated by the law, that the condemned one will no longer be considered as fit to depose in a court of justice and will be deprived of his civil rights, that the guilty one will be put under the surveillance of the municipal council in that which concerns the circumstances of his life; in the case of an amelioration, the stipulations of which the preceding paragraph speaks should also be applied to the extent that will be possible under the circumstances of which the present paragraph speaks.

"That one who shall be convicted of an ulterior infraction of drunkenness will be considered as incurable, and will be from then without rights before the law, consequently he could not be put under accusation, but he will be remitted to the decision of the municipal council, who will give assistance to that lost individual in an insane asylum or in a hospital or in a workhouse where are admitted the lazy and the vagabonds."

Social measures to take against alcoholics in general, measures which are systematized by M. Bratt and which are unfolded in the report of the Swedish committee, I will not deal with here, although they are of very great importance for the entire alcoholic question. Those who are interested in new ideas and who ask the question under an aspect wholly original, I exhort to take cognizance of Bratt's system as it is unfolded in the report, *Alkoholien och samhället*.

Where it concerns the criminalistic side of the alcoholic question, it remains for us to view the social treatment that should be chosen against the criminals whose crimes show evident connection with acute or chronic alcoholic intoxication. For finding the rational treatment it seems necessary to keep in view the object of the social reaction of criminal policy and of the general psychology of the alcoholic.

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Now, for a rational penal system the object of the reaction of criminal policy can be only the dangerous state presented by the criminal in regard to society. I will not enter into a discussion of the question, i. e., whether it is preferable for society to react against all dangerous states of any importance, as soon as that state is ascertained to exist in an individual and before the dangerous state even manifests itself by delinquent or criminal acts. Here I admit the second principle: that all reaction of criminal policy against a particular person assumes that he has manifested a dangerous state by an act incriminating before the law.

Now a dangerous state in a criminal alcoholic has this peculiarity which distinguishes it from the dangerous state of all other criminals: namely, it may be provoked at all times by an act of will of the individual, that is to say, that of intoxicating himself with alcohol. This distinction between the alcoholic criminal and all other criminals is, it seems to me, of an importance so great that it would be neglecting what should be the primordial tendency of all criminal policies, to-wit, to seek chiefly the causal means of social defense, if one neglects this distinction in seeking the proper reactions against alcoholic criminals. This manner of looking at the question, although it has not yet taken shape in any penal code to my knowledge, nor exercised any influence on the new projects of penal law that have been elaborated during the last years, is nevertheless completely in accord with the principles on which is based the modern movement of criminology. It is true that in the penal code of Austria there is a stipulation according to which the person who has committed a crime in a state of "complete drunkenness" (*volle Berauschung*) is considered as "irresponsible." Therefore he is not punished for the crime that he has committed in that state. Drunkenness alone is punished as an infraction of law by a penalty of a three, exceptionally a six, months' imprisonment. This penalty has a character distinctly repressive against future drunkenness, but it has no other preventive character than that which appertains to all fixed punishments against a determined delinquency, since the sentence has not fixed any optional and aggravated punishment for repeated drunkenness.

If one admits the principles here unfolded concerning the object, which should have in view a rational reaction of criminal policy against the criminal alcoholic, it is evident that this reaction should comprise two distinct factors: it should be directed first against the dangerous state actually manifested by the overt incriminating act; second, against the potential dangerous state which may supervene in the future if the individual after having submitted to his punishment, puts himself again in a state of alcoholic intoxication. It goes without saying that the



penalty intended for the potential future dangerous state should be of a serious nature, and that it should be still more aggravated in cases of relapses into intoxication. This implies then that drunkenness in a recidivant criminal alcoholic should be treated with much more rigor than that in an individual who has never committed a criminal act. It should not be said that that principle should be rejected as opposed to the principle of equality before the law, because the dangerous state presented by the drunkenness of an individual who has never committed crime under the influence of alcohol cannot be the equal of that which is presented by the drunkenness of an individual who has already committed a criminal act in a state of drunkenness. Besides, drunkenness represents many different degrees of the dangerous state and to these different states should correspond different penalties. If gradations of penalties are necessary it is to the gradations of these dangerous states that they should be adapted.

The second principle that must be considered in seeking a rational social treatment for alcoholic criminals is the general psychology of alcoholics.

It being conceded that that which in the majority of cases leads to a relapse is not an irresistible physical appetite but merely a psychic craving for alcohol, and it being also conceded that in order to prevent a relapse it is necessary to build up sufficiently strong motives against it and that these are generally wanting in the present state of society, it is necessary first to inquire into the nature of these motives. As we have seen before, the alcoholic should not and cannot generally be considered as suffering from a disease. A treatment in any sort medical will therefore not be indicated. On the contrary, the treatment should be based on the opinion that the alcoholic is a man who in the majority of cases can abstain from ethylic drinks if you only give him sufficient motives. When it concerns a criminal alcoholic these motives need scarcely be sought elsewhere than among the means which society already has at its disposal to react against criminality in general, to-wit: Payment for damages, privation of rights, fines, penalties against liberty, to last a definite time, or more or less indefinite, etc.

I will try now to sketch a system of reactions of criminal policies against criminals whose crimes have been committed under the influence of acute or chronic ethylic intoxication. I want especially to observe that this system does not claim to be so adapted to present political or social circumstances that it could be put into actual practice at the present time. On the contrary, I know very well that such realization is not at present possible. But I believe that it is always useful to form a clear idea of the rational principles which it is desirable to realize

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before commencing the work of introducing these principles in legislation, because that work entails always a certain deference to principles less rational but founded on deep-rooted opinions of the people, opinions which, though erroneous, nevertheless in lands of constitutional parliaments leave their imprint on legislative work.

In following always the division of the matter that we have made in the first part of this memoir we have here to discuss the system of treatment of three different groups of alcoholic criminals.

a. Those who without being chronic alcoholics have committed their crime under the influence of an acute ethylic intoxication.

b. The chronic criminal alcoholic whose crime is connected with a state of intoxication.

c. Those who have committed their crimes under the influence of a psychosis of alcoholic origin.

*Acute Alcoholic Criminals.*—The distinguishing characteristic of this group is the crimogenic role played by accidental drunkenness. Among the cases considered here two different groups should be distinguished, the classification being made according to the degree of danger to society.

This distinction should be made not only according to the gravity of the criminal act but also and chiefly by a minute examination and recording of the personality of the criminal. This examination made in the course of inquiry will permit a decision as to whether a given case is one of "acute" accidental criminality (*Gelegenheits Verbrechen*) or if there are inherent criminal tendencies of the individual, or whether the individual is one whose mentality as revealed by his antecedents and by direct examination, is of an antisocial and dangerous nature.

First. The individual belonging to the first of these two groups, the criminal acute or accidental, should be subjected to a progressive treatment as follows:

a. As result of the crime committed they should be condemned to the punishment ordinarily stipulated for the crime in question: punishment by fine or with loss of freedom with or without reprieve, besides that the sentence should pronounce a serious optional punishment against repeated drunkenness.

b. In case of repeated drunkenness the optional punishment contained in the previous sentence should be executed and at the same time the tribunal should pronounce a new sentence, which fixes a new punishment, optional and more severe against repeated drunkenness (or perhaps rather against the use of alcoholic drinks).

c. In case of renewed relapses the procedure should be repeated, but after numerous relapses, which then prove that the individual seems

to be developing towards chronic alcoholism, recourse should be had to the means which are reserved for the chronic alcoholics, that is to say, confinement in a workhouse, a confinement which should be of a duration relatively indeterminate and which should be combined with conditional liberation.

Second. The dangerous criminals—The criminals of this category should be treated by punishments of a duration relatively indeterminate and having a maximum term. The system naturally implies conditional liberation, a period of trial, and surveillance. After his definite liberation the criminal should be subjected to the same rules and optional punishments in case of relapse into drunkenness as acute or accidental criminals.

In case of relapses into crime committed under the influences of alcohol, every criminal should be treated as dangerous.

*Chronic Alcoholic Criminals.*—In this category it is also advisable to distinguish between those who are acute accidental criminals and those who are dangerous or chronic criminals.

First. Accidental criminals—For individuals belonging to this group the reactions of the criminal policy should vary according to the nature of the punishment which follows the crime committed.

a. If the punishment is a fine or a privation of liberty of very short duration it should be followed by the immediate confinement in the workhouse, because with those chronic alcoholics who are still under the direct influence of intoxication one must reckon with the persistence of the physical appetite of alcohol against which the menace of an optional punishment is scarcely effective.

b. If on the contrary the stipulated punishment against the crime committed is a privation of liberty of a very considerable duration (more than a month for example) the same rules which are indicated above for accidental criminals whose crime is in relation with an acute drunkenness should be applied, with this exception, that the optional punishment should be inflicted, not alone against drunkenness, but against the use even of alcoholic drinks, and that the confinement in a workhouse should follow the second relapse.

Second. Chronic alcoholics who are habitual or dangerous criminals should be subjected to the same treatment as dangerous criminals whose crime has been committed under the influence of an acute drunkenness.

In principle the penal sanction and the reaction of the criminal policy should be the same for:

- 1st. Criminals who are chronic alcoholics.
- 2nd. Habitual criminals who are not alcoholic.

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### 3d. Vagabonds.

From the criminalistic point of view all these individuals form only a single large group and the presence of alcoholism in these individuals has only a limited importance for the criminal policy.

Evidently a treatment of criminal alcoholics so rigorous and severe as that which I have sketched above, presupposes profound modifications of current opinions on drunkenness and its importance, not alone in the people but also in the magistrate, the jurors of the tribunal, the legislators, etc. The erroneous opinion that drunkenness is an extenuating circumstance, must disappear entirely at least with those who have to judge the evil deeds of alcoholics. As long as there are jurors who regard the drunkenness of a chronic drinker who kills his wife by a kick as an extenuating circumstance of such a nature that the author of such an atrocious crime can get off with a punishment of three years in prison (sic)—this happened in a French tribunal some months ago—it will be impossible to modify the manner of judging drunkards and their dangerous and demoralizing influences as they exist at present among the people.

Criminals whose crimes have been engendered by a psychosis of alcoholic origin.

That which necessitates the law should provide a special treatment for criminals who at the moment of the commission of their crime are under the influence of an alcoholic psychosis, is first the toxic origin of these psychoses; because the criminal himself may, by the voluntary act of drinking alcohol, provoke relapses of the malady; and because, as it is characteristic of many of these psychoses to be of very short duration, the symptoms may have often disappeared before the verdict is given, in other cases even before the end of the inquiry and in cases of pathological drunkenness even before the commencement of the inquiry. On account of these two characteristics of alcoholic psychoses, it follows that the reactions of criminal policy should:

First—Direct themselves against the relapses indirectly voluntary of the malady;

Second—Prevent the tendencies of preventive legal measures, which should be the essential in all reactions of criminal policy, from being destroyed by the fact that the individuals having committed grave crimes are set at liberty immediately after the judgment without any measure of social defence being taken against them. For the realization of these two objects of social reaction it is necessary, I believe, that the law should provide different measures according as the duration of the psychosis is very short or very long.

a. Alcoholic psychoses of very short duration.—To this category

belong the pathologic drunkenness, the acute deliriums (delirium tremens) and some cases of the hallucinations of Wernicke. For cases of pathologic drunkenness and of acute delirium it can with certainty be foreseen that the symptoms will disappear before or a short time after the judgment.

If the inquiry lags a little one can say the same thing for many cases of hallucinosis. As to all these cases the actual existing procedure which consists in the tribunal declaring that the accused, having been in a state of dementia at the moment of the act, cannot be subjected to the punishment stipulated by the law, without taking any measure of social safeguard against the criminal, is not only silly but directly harmful.

For realizing the two above named effects of all social measures against these criminals there should first be a legal stipulation of such nature that the criminals who have committed grave crimes shall be officially placed in an insane asylum for continued observation or confined in a workhouse. After the sentence against the criminal has been pronounced, there should continue a prohibition against the usage of alcoholic drinks and an optional punishment by imprisonment in a workhouse in a case where the criminal disregards the prohibition.

b. Alcoholic psychoses of a longer duration.—In these cases the sentence should ordain official detention in a hospital for the insane until a cure, and should contain besides the same stipulations as to the usage of alcoholic drinks provided for cases of alcoholic psychoses of short duration.

The brief exposé of the principles which should be adopted for the social treatment of criminals whose crimes show causal relations with acute or chronic ethylic intoxication, principles which are based on the conception of the general psychology of the alcoholic, should only be considered as an attempt to introduce in the discussion of these questions of very great importance, some elements which have until now lacked the proper consideration in this connection. Thus it is necessary, it seems to me, to draw attention to the fundamental fact that the alcoholic in general—I do not speak of exceptions—cannot be considered as a person suffering from disease from the psychologic point of view, although he may very well be so considered from the somatic point of view (hepatic, nephritic, neurotic). Another fundamental fact which should necessarily be considered if one wishes to arrive at a rational legislation against alcoholic criminality, is that the dangerous state of the alcoholic criminal may be brought about by his own voluntary act.

Finally, it is impossible to provide effective measures of criminal

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policy against any sort of crime without considering the divers forms which it may assume, since without that it is impossible to apply one of the most important means for social reaction against crime—to-wit, individualization.